

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA
CLARKSBURG**

HARRY GINGOLD,

Plaintiff,

v.

**WEST VIRGINIA UNIVERSITY
BOARD OF GOVERNORS, E. GORDON
GEE, MARYANNE REED, GREGORY
DUNAWAY, and EARL SCIME**

Defendants.

**CIVIL ACTION NO.: 1:23-CV-91
(JUDGE KLEEH)**

ROSEBORO NOTICE

This matter is before the undersigned Magistrate Judge pursuant to a referral from the presiding District Judge. [ECF No. 5]. On October 19, 2023, Defendants filed a Motion to Dismiss [ECF No. 15] and memorandum in support [ECF No. 16], thereof. Before considering the Defendants' Motion to Dismiss, the Court notifies Plaintiff, in accordance with Roseboro v. Garrison, 528 F.2d 309, 310 (4th Cir. 1975), of his right to respond to Defendants' Motion to Dismiss.¹

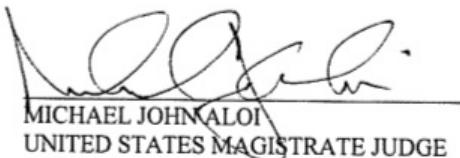
¹ The Fourth Circuit did not hold in Roseboro that such notice is required for motions to dismiss. Rather, the Fourth Circuit's discussion in Roseboro regarding notice was directed to summary judgment. See Roseboro v. Garrison, 528 F.2d 309, 310 (4th Cir. 1975) ("We agree with the plaintiff, however, that there is another side to the coin which requires that the plaintiff be advised of his right to file counter-affidavits or other responsive material and alerted to the fact that his failure to so respond might result in the entry of summary judgment against him."); see also Norman v. Taylor, 25 F.3d 1259, 1261 (4th Cir. 1994) ("In Roseboro v. Garrison, 528 F.2d 309 (4th Cir. 1975), this circuit held that pro se plaintiffs must be advised that their failure to file responsive material when a defendant moves for summary judgment may well result in entry of summary judgment against them."). Nevertheless, courts routinely issue Roseboro notices for motions to dismiss, and the Court does so here.

Therefore, within **twenty-one (21) days** of the date of this Order, Plaintiff shall file any opposition he has to Defendants' motion. The Plaintiff's response **shall not exceed 25 pages**.

IT IS SO ORDERED.

The Clerk is directed to send a copy of this Order to *pro se* Plaintiff by certified mail, return receipt requested, to his last known addresses as shown on the docket, and to counsel of record by electronic means.

DATED: December 21, 2023.



MICHAEL JOHN ALOI
UNITED STATES MAGISTRATE JUDGE